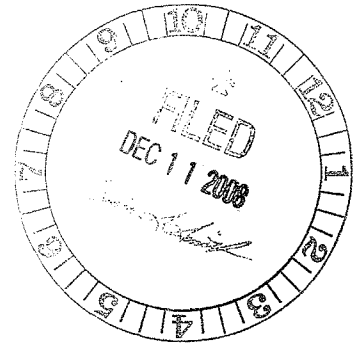


In the
Indiana Supreme Court



Shona and Floyd FISHER)	Supreme Court No. 03S00-0812-SJ-627
Plaintiffs)	
)	
vs.)	Case No. 03D02-0811-CT-507
)	
Andrea L. MERNITZ, M.D., and)	in the Bartholomew Superior Court
Sandcrest Family Practice)	
Defendant)	

ORDER REMANDING JURISDICTION TO TRIAL COURT

The Honorable Roderick D. McGillivray, Judge of the Bartholomew Superior Court No. 2, pursuant to Ind.Trial Rule 79, presents this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Bartholomew Superior Court and Judge Roderick D. McGillivray. Under Trial Rule 79(H)(3) an appointment by this Court is appropriate where there is a certification that: 1) no judge is eligible to serve as special judge or 2) the particular circumstances of the case warrants a selection of a special judge by this Court. Judge McGillivray's Order does not contain a certification as described above. As such, selection of a special judge should proceed pursuant to local rule. Trial Rule 79(H).

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Bartholomew Superior Court and Judge McGillivray for selection of a special judge pursuant to local rule or a certification to this Court that no judge is eligible to serve as special judge or that the particular circumstances of the case warrants a selection of a special judge by this Court.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Roderick D. McGillivray, Bartholomew Superior Court, 234 Washington, Columbus, IN 47201-6750, and to the Clerk of the Bartholomew Superior Court.

The Clerk of the Bartholomew Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 11th day of December, 2008.

Randall T. Shepard
Chief Justice of Indiana